IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.THANKAPPAN

WEDNESDAY, THE 4TH JULY 2007 / 13TH ASHADHA 1929

CRL.A.No. 444 of 2000()

CC.805/1999 of JUDL. MAGISTRTE OF FIRST CLASS COURT-III, THRISSUR

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APPELLANT:

P.O. SEBASTIAN,
S/O. OUSEPH,
PADIKKALATH HOUSE,
PANANCHERY VILLAGE, PATTIKKAD DESOM,
THRISSUR DISTRICT.

BY ADV. SRI.JIJO PAUL
SRI.BABU S. NAIR

RESPONDENTS:

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1. K.K. RAMDAS,
S/O. KRISHNANKUTTY NAIR,
KOLANGATH HOUSE, PATTIKKAD P.O.,
THRISSUR DIST.

2. THE STATE OF KERALA REP. BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA,
ERNAKULAM, KOCHI-13.

R2-BY P.P.SRI.C.M.KAMMAPPU

THIS CRIMINAL APPEAL HAVING BEEN FINALLY HEARD ON 04/07/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

K. THANKAPPAN, J.

CRL.A.NO.444 OF 2000-C

Dated this the 4th day of July, 2007.

JUDGMENT

This appeal is filed against the order passed under Section 256 of the Code of Criminal Procedure. Though it is stated in the order that the complaint is dismissed, this Court is taking it as an order passed under Section 256(1) acquitting the respondent/accused. Hence, the appeal is heard. The only reason stated in the order impugned is absence of the complainant/appellant. The order itself shows that the trial court had not complied the dictum laid down by this Court in the judgments reported in **Don Bosco v. Partech Computers Ltd** (2005 (2) KLT 1003) and **G.F.S.Chit & Loans (P) Ltd. v. Rajesh** (2006 (3) KLT 825). and the court had not made up its mind before passing the impugned order. Hence, it is only proper for this Court to set aside the impugned order and remand back the matter to the trial court for a fresh disposal as per law.

Accordingly the order under challenge is set aside and the matter is remanded back to the trial court. The trial court is directed to consider the matter afresh from the stage at which the impugned

order has been passed and the parties shall appear before the lower court on 18.8.2007.

K. THANKAPPAN, JUDGE.

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K. THANKAPPAN, J.

CRL.A.NO.444 OF 2000-C

JUDGMENT

4th July, 2007.